City of San Antonio

City Council Special Meeting

City Hall Complex
105 Main Plaza
San Antonio, Texas 78205

Thursday, September 19, 2019 1:00 PM Municipal Plaza Building

The City Council convened in a Special Meeting. City Clerk Leticia M. Vacek took the Roll Call noting a quorum with the following Councilmembers present:

PRESENT: Mayor Nirenberg, Treviño, Andrews-Sullivan, Viagran, Garcia Rocha, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage, and Perry.

1. Briefing by the Paid Sick Leave Commission on the petition-initiated Paid Sick Leave Law. [Colleen Bridger, Assistant City Manager; Jennifer Herriott, Interim Director, Health Department; Danielle Hargrove, Chair, Paid Sick Leave Commission]

Colleen Bridger presented a PowerPoint and stated that a report submitted by Dr. Nivin and Dr. Roman regarding the projected costs and benefits of paid sick leave on small businesses. The report revealed that:

- Employees without sick leave were more likely to attend work with a contagious illness.
- Productivity declines in the workplace due to illness.
- Workplace injuries decreased when employees were allowed to take time off.
- Lower turnover was noted when employees were allowed to take time off.

She noted that the implementation costs to employers were nationally estimated to be approximately 0.4 percent of the total firm revenue and in San Francisco, the majority of employees with paid sick leave used less than half of their accrued days and abuse was limited. She stated that higher job growth was noted in Seattle and San Francisco compared to similar cities without Paid Sick Leave (PSL). She noted that utilization of emergency rooms and subsequent taxpayer burdens were reduced. She stated that the total estimated employer cost was $26,451,636, and the total estimated community benefit was $44,206,504 resulting in a net benefit of $27,754,869 to employers and the community.

Danielle Hargrove, Chairwoman of the Paid Sick Leave Commission, stated that in May of 2018 a petition to pass a Paid Sick Leave Ordinance in San Antonio was submitted to the Office of the City Clerk. She noted that on August 2, 2018, the City Clerk certified that sufficient signatures were

gathered and two options were available: 1) Place item on the November 2018 ballot for a vote; or 2) City Council to vote to adopt the Ordinance as written. She stated that on August 16, 2018, the City Council voted to adopt the Ordinance as written and on November 21, 2018, Mayor Nirenberg appointed an Ad Hoc Committee on Paid Sick Leave. The Committee would review options for revising the Paid Sick Leave Ordinance with full stakeholder support. She noted that the Ad Hoc Committee on Paid Sick Leave was charged with creating a Paid Sick Leave Commission (PSLC) and establishing a process which incorporated the input of all stakeholders to arrive at final recommendations for the City Council. She stated that the work of the PSLC was divided into five subcommittees: 1) Compliance/Governance; 2) Definitions/Qualifications; 3) Execution; 4) Legal Considerations; and 5) Research/Best Practices. She noted that the PSLC Meetings began on April 17, 2019 and a total of 15 meetings were held. She reviewed the timeline of events related to the Paid Sick and Safe Leave Ordinance and noted that the Ordinance would be implemented on December 1, 2019. She reviewed the key recommendations made by the PSLC for the Paid Sick and Safe Leave Ordinance (Ordinance).

Laura Mayes reported on the City's outreach activities for the Ordinance which followed the City's Public Participation Administrative Directive related to PSL. She reviewed the various outreach activities to include a survey, displays, meetings, and a social media presence. She stated that the meetings included live Spanish and (American Sign Language) ASL Interpretation, and audience polling.

Mayor Nirenberg expressed support for defining the Ordinance as a Sick and Safe Leave Ordinance. He asked how the eligibility period had changed. Dr. Bridger replied that it was the consensus of the PSLC to allow 180 days to continue for those which currently had that eligibility period and 90 days for all others. Mayor Nirenberg noted that the eligibility period be closer to the intent of the petition. He asked of the basis for revising the complaint period from two years to 60 days. Ms. Hargrove stated that a longer complaint period made it difficult to enforce the complaint and there could be a question of the viability of the complaint. Mayor Nirenberg recommended that the complaint period be revised from two years to one year and the portion of the Ordinance which discussed employer/employee contracts pre-empted by State and Federal Law be reinstated. Deputy City Attorney Ed Guzman stated that the language recommended by the City Attorney's Office states: "The written contract may, pursuant to Title 21 of the United States Code or other State or Federal Law that provides for collective bargaining between an employer and a Labor Organization representing employees, shall determine the benefits provided to the employees, shall not be subject to this Ordinance". Mayor Nirenberg agreed with the recommended language to be included within the Ordinance.

Councilmember Viagran asked if the Ordinance would apply to contract labor. Ms. Hargrove stated that it would apply to the employer of the contract labor.

Councilmember Peláez asked if providing the payment of a stipend to interns required the employer to provide Sick and Safe Leave. Mr. Guzman replied that if they were paid for work it would apply to the employer and the exclusion applied to unpaid Interns. Councilmember Peláez expressed concern that those providing a stipend for Interns would be obligated to provide Sick and Safe Leave to them. Councilmember Peláez asked if employers based outside of the City had to provide Sick and Safe Leave to their Transient Workers. Mr. Guzman replied that if the Transient Workers were paid for work performed in San Antonio then the Ordinance would apply to their employers.

Councilmember Andrews-Sullivan stated that the Ordinance benefited the employer and society.

Councilmember Courage expressed support for the Ordinance with the revisions suggested by Mayor

Nirenberg and Councilmember Peláez.

Councilmember Treviño asked how the Ordinance would affect GIG Economy Workers such as drivers for Transportation Networking Companies. Ms. Hargrove stated that they were employees and the Ordinance applied to them. Councilmember Treviño expressed support for the revisions proposed which allows the Director of Metro Health extended authority to be flexible.

Councilmember Cabello Havrda stated that she would like to see the Ordinance aligned with Texas State Law which allows up to 300 days to report a discrimination violation. She expressed support for extending the time given to file a complaint to one year and clarifying the language regarding Transient Workers.

Councilmember Rocha Garcia expressed concern regarding the Ordinance's effects on paid internships and agreed with Councilmember Peláez with regards to Interns that were provided a stipend be covered with Sick and Safe Leave.

Councilmember Perry asked of the current litigation process. First Assistant City Attorney Liz Provencio stated that a lawsuit was filed against the City on August 1, 2019. She noted that the City had the lawsuit abated until November 7, 2019.

Councilmember Viagran stated that she supported the recommendations made by Councilmembers Peláez and Rocha Garcia regarding internships. She questioned the potential impact the Ordinance would have on Workforce Development Programs.

Councilmember Sandoval asked of the issues which were unresolved with the PSLC. Dr. Bridger stated that all issues were resolved by the PSLC. Ms. Hargrove reviewed the sections of the Ordinance where the PSLC had discussions and exceptions. Councilmember Sandoval stated that the eligibility period be set at 90 days, and the word "must" be removed from Section 15-276(b), and the complaint period should be extended to one year. She requested that language be added barring discrimination regarding suspected abuse and stated that the word "may" in Section 15-279 be replaced with the word "shall".

Councilmember Gonzales requested language that limits the scope of on-site work to matters concerning the PSL Ordinance.

Councilmember Peláez asked if protections for the privacy of employees were included in the Ordinance. Ms. Hargrove replied that some State Laws include confidentiality and privacy provisions which could be incorporated into the Ordinance.

Mayor Nirenberg summarized the direction provided by the City Council:

- Revising the eligibility period from 180 days to 90 days
- Revising the complaint period from 60 days to one year
- Addition of language regarding preemption of State and Federal Law related to Collective Bargaining Agreements
- Underscoring non-discrimination protections in the Ordinance
- Revise language to exclude Transient Workers and Paid Interns
- Making the Director's Annual Report mandatory
- Including language on the intent and scope of the Ordinance
- Incorporating confidentiality and privacy provisions in the Ordinance

City Manager Walsh stated that an updated version of the Ordinance including the revisions/additions would be sent to the City Council by close of business on September 23, 2019.

Mayor Nirenberg stated that the City Council would be able to vote on each of the proposed revisions separately. He noted that it was important that the City of San Antonio lead the State in passing a Paid Sick Leave Ordinance.

ADJOURNMENT

There being no further discussion, Mayor Nirenberg adjourned the meeting 3:35 pm.

APPROVED

RON NIRENBERG
MAYOR

Attest:
LETICIA M. VACEK, TRMC/CMCMMC
City Clerk